

9 February 2021

Brooke Dales
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Dear Brooke

Resource consent application at 1110 Great South Road, Mount Wellington (LUC60344578) – Supplementary Section 92 request

1. I refer your email dated 30 January 2020 requesting further information on the resource consent application for revegetation restoration and exotic vegetation removal works at Ōtāhuhu. The request is in response to issues raised by the Duty Commissioner on 4 November 2019, and Council's subsequent legal advice on noise standards.
2. This response has been on hold pending the outcome of a High Court Judicial Review for vegetation restoration at Ōwairaka/Mt Albert.¹ The decision, which was released on 22 December 2020, found in favour of the Authority and Auckland Council.

Noise standards

3. Council's position is that the construction noise standards do not apply to the tree removal works as the works are not related to a construction activity. On this basis, the noise standard to be applied is E25.6.18 for all noise sources (excluding the use of a helicopter). For helicopter noise the Council's position is that only noise standard E25.6.32 Noise levels for helicopters take-off or landing² applies. In accordance with Council's advice, all other noise generated by the use of helicopters is permitted.
4. As outlined in previous communications³ and reiterated in the attached Consulting Advice Note prepared by Mr Jon Styles⁴, the applicant's position is the tree removal works fit squarely within the scope of construction work and construction noise standards under NZ6803:1999 are applicable. Simply put, the works are a one-off, temporary noise event and do not represent an on-going, operational noise source as would be the case for permanent, everyday indefinite use of the site as a heliport, helipad or formal landing area.
5. Notwithstanding, given Council's position the applicant applies for resource consent to exceed the 50dB L_{DN} noise limit of E25.6.32 and 50 dB L_{Aeq} noise limit in standard E25.6.18.

¹ CIV 2019-404-2682 [2020] NZHC 3425

² Email of Brooke Dales dated 30 January 2020

³ Letter dated 15 October 2019 in respect of LUC60344578

Letters dated 10 December 2019 and 26 February 2020 in respect of LUC60347931

⁴ Reviewed and confirmed by Mr Styles 5 February 2021

Effects of Helicopter Noise

6. As set out in the application⁵, the expected duration of the works is 69 days. To manage noise effects, the maunga has been divided into two zones (east and west) and works within the two sectors will be carried out in two stages, separated by a timeframe of no less than 6 months and no greater than 18 months⁶. Helicopter dismantling occurs for a maximum of 27 days⁷ with take-off and landing only required for refuelling.⁸ Applying a maximum duration for take-off and landing procedures, noise generated by the helicopter on the eastern portion will infringe the noise limits in E25.6.32 at a number of receivers likely to contain activities sensitive to noise (i.e. residential sites).⁹ The extent of the infringement ranges from 1 dB to 9dB and adjacent sites containing activities sensitive to noise are identified in Attachment A. Helicopter operations in the western portion will comply with the standard.
7. As pointed out by Mr Styles, comparing the noise effects against a standard that is designed to control continuous noise effects over an infinite period is inappropriate.¹⁰ In this regard, Mr Styles notes the noise effects generated by the landing, take-off and refuelling procedure will also be significantly less than the noise generated by the lifting and transporting operations on any given day, which in the Council's view are permitted.¹¹
8. Mr Styles conclusion is that compared to the noise effects generated during lifting and transporting phases of the helicopter operations, the noise effects generated by landings and take-offs will be extremely brief, and insignificant in terms of the noise effects that are permitted by the Council's interpretation.¹²
9. On this basis, no persons are adversely affected by the take-off and landing of the helicopter under Sections 95(B) and (E) of the Resource Management Act 1991.

Effects from other noise sources

10. As requested by Council, the extent of the infringement of standard E25.6.18 to residential, industrial and business boundaries has been modelled.¹³ The infringement is greatest when the chipper is operating closest to residential dwellings and will be up to 75dB L_{Aeq} . In other words, close to, but not exceeding the construction noise standard.
11. Mr Styles view is that irrespective of the applicability of 'construction noise', NZS 6803.1999 it remains entirely applicable to the assessment of effects from the project noise levels (chainsaw, log chipper, crane).¹⁴ For receivers exposed to processing noise levels up to 75dB L_{Aeq} , it is concluded that the permitted levels generated by the helicopter will be significantly greater than the processing noise.

⁵ Paragraph 5.13

⁶ Paragraph 5.10

⁷ Paragraph 5.16 & footnote ²² 27 days is worst case scenario for helicopter use, as advice from Treescape (2019, page 13) is that it may be feasible as the works progress to remove more trees by crane

⁸ Styles, 7 April, page 3 Identifies specific operational parameters to define helicopter take-off and landing.

⁹ Styles, 7 April, Page 5

¹⁰ Styles, 7 April, page 6

¹¹ Styles, 7 April, page 6

¹² Styles, 7 April, page 15

¹³ Styles, 7 April, Page 8

¹⁴ Styles, 7 April, Page 12

12. Also relevant to the assessment of effects is that the noise infringement is for a limited duration and Chapters E14 Temporary Activities and E25 Noise and Vibration of the AUP permit an activity to exceed noise levels where it occurs for a short period of time. In this context, the noise effects are very similar to a short-term construction project.
13. Having considered these matters from a planning perspective, I concur with the assessment and conclusion of Mr Styles. On this basis, my assessment and conclusion that no persons are adversely affected by the activity remains unchanged.

Restricted discretionary activity assessment

14. In accordance with Table E25.4.1 (A2) an infringement of standards E25.6.18 and E25.6.32 is a restricted discretionary activity.
15. An assessment of the matters over which the Council has reserved its discretion is included in the Consulting Advice Note at Appendix A. These matters have been addressed throughout Mr Styles Consulting Advice note.
16. From a planning perspective, I consider the proposal is consistent with the criteria as the methodology has been designed to managed noise effects, and in particular:
 - the activity has been structured into two stages;
 - the activity is of short duration, limited frequency, and will be carried out during daylight hours;
 - helicopter use is limited to 9am – 5pm Monday to Friday;
 - helicopter and processing sites are located away from sensitive noise receivers;
 - through the Communications Plan adjacent land users will have a clear understanding and expectation of the temporary duration of the noise levels, enabling them to plan around the short duration of the works if required.

Offered conditions

17. The conditions of consent detailed in earlier advice and the application continue to be offered on an augier basis, with the following changes recommended to address the modification for controlling noise emissions for helicopter take-off and landings:
 1. The noise from all works except helicopter activity shall comply with a noise limit of 75dB L_{Aeq} when measured 1m from the facade of any occupied building in accordance with NZS6803:1999 *Acoustics – Construction Noise*.
 2. The noise from the landing, take-off and refuelling of the helicopter shall comply with a noise limit of 60dB L_{DN} when measured within the boundary of any neighbouring site.
 3. Any noise level measurements undertaken to determine compliance with condition 2 shall be based on the definitions of landings, take-offs and refuelling procedures set out in the application documents:
 - a) The landing procedure beginning from the time the helicopter disconnects its load over the processing site, and ending when the machine lands on the ground adjacent to the processing site.

- b) The noise measurement then includes the period when the helicopter is on the ground for refuelling (approximately 15 minutes).
- c) The take-off procedure beginning when the machine lifts off the ground, and ends when the machine reaches an altitude of 75-90m (245- 295 ft) above the local ground level. Once the machine reaches that altitude, it will transition immediately back into the lifting and transport work and the noise measurement shall cease.
- d) The noise level of the full procedure in (a) to (c) shall be aggregated into one Sound Exposure Level measurement for use in the calculation to derive the L_{DN} level for comparison with condition X in accordance with the requirements of NZS6801:2008.
- e) Any reference in NZS6801:2008 to other standards for the measurement and assessment of helicopter noise shall be ignored.

Vegetation restoration on Tūpuna Maunga

- 18. Currently with the Auckland Council are three resource consent applications for ecological restoration. These applications have a set of facts and circumstances similar to the Ōwairaka/Mt Albert resource consent the High Court declined to make any of the orders sought by the applicant against.¹⁵ Notably, Ōtāhuhu does not have a Significant Ecological Overlay.
- 19. The Authority holds a long-term view that the Tūpuna Maunga are taonga are restored and enhanced as wahi tapu and as native habitat for generations to come. The proposal detailed in the resource consent application, including removal of exotic trees, are an essential part of this ecological programme.¹⁶
- 20. The High Court decision provides strong support for ecological restoration on Tūpuna Maunga and this application at Ōtāhuhu to be processed as non-notified.

Should you have any questions regarding the above, do not hesitate to telephone to discuss.

Yours faithfully



Jodie Mitchell BRPlan (Hons)
Richmond Planning Limited

Encl:
Attachment A: Acoustic Advice Note

¹⁵ CIV 2019-404-2682 [2020] NZHC 3425

¹⁶ letter to Fennel Mason, 25 January 2021